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Attorney for Plaintiffs  
Jin Wu and Chang Zhang

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

**Jin Wu and Chang Zhang,**

Plaintiffs,

v.

**Alberto Gonzales**, United States Attorney  
General, U.S. Department of Justice;  
**Michael Chertoff**, Secretary of the  
Department of Homeland Security;  
**Emilio T. Gonzalez**, Director of United States  
Citizenship and Immigration Services;

Defendants

Case No. C 07-3118 JF

**JOINT CASE MANAGEMENT  
STATEMENT; AND [PROPOSED]  
ORDER**

**1. Jurisdiction and Service**

The basis asserted by Plaintiff for this Court's jurisdiction is 28 U.S.C. § 1361, 28 U.S.C. § 1331, and 5 U.S.C. §§ 551, 702. The parties do not dispute that venue is proper in this district. No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

**2. Facts**

Plaintiffs are natives of China who have applied to adjust status to lawful permanent residence with the United States Citizenship and Immigration Services (USCIS) on April 27, 2005. The

USCIS has yet to adjudicate Plaintiffs' I-485 applications. The plaintiffs filed an action, through counsel, on June 13, 2007, seeking an order from this Court directing USCIS to adjudicate the I-485 applications.

### **3. Legal Issues**

1. Whether this Court should dismiss the plaintiffs' action for failure to state a claim and for lack of subject matter jurisdiction.

2. Whether the delay in the adjudication of Plaintiffs' I-485 applications is unreasonable.

### **4. Motions**

No motions have been filed. The parties intend to file cross-motions for summary judgment.

### **5. Amendment of Pleadings**

No parties, claims or defenses are expected to be added or dismissed.

### **6. Evidence Preservation**

The parties do not have any evidence that falls within this category.

### **7. Disclosures**

The parties believe that review will be confined to the administrative record and thus the disclosure requirements of Fed. R. Civ. P. 26 do not apply.

### **8. Discovery**

The parties do not intend to take any discovery in this case.

### **9. Class Actions**

N/A

### **10. Related Cases**

The parties are not aware of any related case or cases.

### **11. Relief**

The plaintiffs ask this Court to direct the USCIS to adjudicate the I-485 applications forthwith.

### **12. Settlements and ADR**

On September 28, 2007, the parties filed a request to be excused from the formal ADR process for this case.

### **13. Consent to Magistrate Judge for All Purposes**

1 The parties would consent to proceed before a Magistrate Judge.

2 **14. Other References**

3 The parties do not believe that this case is suitable for reference to binding arbitration, a special  
4 master, or the Judicial Panel on Multidistrict Litigation.

5 **15. Narrowing of Issues**

6 The parties do not believe that the issues can be narrowed by agreement or by motion, and do not  
7 have suggestions to expedite the presentation of evidence at trial, and any request to bifurcate  
8 issues, claims or defenses.

9 **16. Expedited Schedule**

10 The parties believe this case can be resolved on cross motions for summary judgment.

11 **17. Scheduling**

12 The parties will notice and move for summary judgment with the following proposed due dates:

13 Parties' cross-motions for summary judgment: October 26, 2007

14 Parties' opposition motions: November 9, 2007

15 The Parties respectfully request that the Court take this matter under submission based on the  
16 above motions and that no summary judgment hearing be held for this case. Should the Court  
17 deem that a hearing is necessary, the parties propose a summary judgment hearing date of  
18 November 30, 2007.

19 **18. Trial**

20 The parties do not anticipate the need for a trial in this case.

21 **19. Disclosure of Non-Party Interested Entities or Persons**

22 The parties filed the "Certification of Interested Entities or Persons" required by Civil Local Rule  
23 3-16.

24 **20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this**  
25 **matter**

26 None.

27 ///

28 ///

1 Dated: October \_\_\_\_, 2007

\_\_\_\_\_/s/\_\_\_\_\_  
Justin G. Fok  
Law Offices of Jean D. Chen  
Attorney for Plaintiff

6 Dated: October \_\_\_\_, 2007

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Edward A. Olsen  
Assistant United States Attorney  
Attorney for Defendants

13 **ORDER**

14 The Case Management Statement and Proposed Order are hereby adopted as the Case  
15 Management Order for the case and the parties are hereby ordered to comply with this order.

18 Dated: \_\_\_\_\_

\_\_\_\_\_  
Jeremy Fogel  
United States District Judge